

REMARKS

Favorable reconsideration of this application as presented herein is requested. Claims 1-33 are pending in the present application. In the above amendments, claims 1, 4, 10, 15-25, 27-29, and 31-33 have been amended. No new matter has been added.

In the Office Action mailed 10/4/2004, the Examiner rejected claims 15-25, 27-29, 31-33 under 35 U.S.C. §112, first paragraph.

The Examiner also rejected claims 1-6, 9-10, 13, 26, and 30 under 35 U.S.C. §102(a) as being anticipated by Chheda (U.S. Patent No. 6,266,529).

Then, the Examiner rejected claims 8 and 11 under 35 U.S.C. § 103(a) as being unpatentable over Chheda (U.S. Patent No. 6,266,529) in view of Vanghi (U.S. Patent Publication No. US2002/0111169).

The Examiner also rejected claim 12 under 35 U.S.C. § 103(a) as being unpatentable over Chheda (U.S. Patent No. 6,266,529) in view of Tiedemann, Jr. et al. (U.S. Patent No. 5,987,326).

Finally, the Examiner objected to claim 7 as being dependent upon a rejected base claim.

Claim Rejections under 35 U.S.C. §112

The Examiner rejected claims 15-25, 27-29, 31-33 under 35 U.S.C. §112, first paragraph. Accordingly, claims 4, 10, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 27, 28, 29, 31, 32, and 33 have been amended in order to correct antecedent basis problems.

Claim Rejections under 35 U.S.C. §102

Then, the Examiner rejected claims 1-6, 9-10, 13, 26, and 30 under 35 U.S.C. §102(a) as being anticipated by Chheda (U.S. Patent No. 6,266,529).

Regarding claim 1, the rejection contends that Chheda teaches a method for managing a list of sectors capable of communication with a subscriber station in a communication system. In order to overcome the rejection, claim 1 has been amended to emphasize another step which consists of sending the retained sector a data request message on a data request channel.

Regarding claims 26 and 30, the rejection contends that Chheda teaches a method comprising determining whether an imbalance exists when the sector is retained in the subscriber

station's list. With respect, the Examiner's argument is traversed. Chheda describes multipath coordination and power control but not based on imbalance. Imbalance in the Applicants' Specification is determined by evaluating each frame and each pair of sectors (see Applicants' Specification, p.21, par.1061.)

Consequently, the Chheda Patent does not anticipate the structure defined in claims 1-6, 9-10, 13, 26, and 30 of the present application. Claims 2-5, 9-10, and 13 depend from claim 1 and therefore include all the limitations of that independent claim. Since the Chheda Patent does not render claims 1-6, 9-10, 13, 26, and 30, as amended, unpatentable Applicants respectfully submit that the rejections thereof be withdrawn by the Examiner.

Claim Rejections under 35 U.S.C. §103

The Examiner rejected claims 8 and 11 under 35 U.S.C. § 103(a) as being unpatentable over Chheda (U.S. Patent No. 6,266,529) in view of Vanghi (U.S. Patent Publication No. US2002/0111169). To establish a prima facie case of obviousness three basic criteria must be met. First, there must be some suggestion or motivation of, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference(s) must teach or suggest all the claim limitations.

The rejection contends that the preceding limitation is taught by Vanghi. However, Chheda and Vanghi do not disclose the added feature of claim 1.

Applicants thus respectfully submit that claim 1 is not rendered obvious by the Chheda Patent when considered alone or in combination with Vanghi. Claims 8 and 11 depend from claim 1 and therefore contain all the limitations of that independent claim. Since the Chheda and Vanghi references do not render claims 8 and 11, unpatentable Applicants respectfully submit that the rejections thereof be withdrawn by the Examiner.

Finally, the Examiner rejected claim 12 under 35 U.S.C. § 103(a) as being unpatentable over Chheda (U.S. Patent No. 6,266,529) in view of Tiedemann, Jr. et al. (U.S. Patent No. 5,987,326).

The rejection contends that the preceding limitation is taught by Tiedemann. However, Chheda and Tiedemann do not disclose the added feature of claim 1.

Applicants thus respectfully submit that claim 1 is not rendered obvious by the Chheda Patent when considered alone or in combination with Tiedemann. Claim 12 depends from claim 1 and therefore contains all the limitations of that independent claim. Since the Chheda and Tiedemann references do not render claim 12, unpatentable Applicants respectfully submit that the rejections thereof be withdrawn by the Examiner.

Claim Objection

The Examiner objected to claim 7 as being dependent upon a rejected base claim. This objection is now moot since claim 1 has been amended.

REQUEST FOR ALLOWANCE

In view of the foregoing, Applicants submit that all pending claims in the application are patentable. Accordingly, reconsideration and allowance of this application are earnestly solicited. Should any issues remain unresolved, the Examiner is encouraged to telephone the undersigned at the number provided below.

Respectfully submitted,

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